

Claim Rejections 35 U.S.C. 112

Claims 1-35 were rejected under 35 U.S.C. 112(1) as failing to comply with the written description requirement. Applicant has amended claims. First, Applicant has deleted language from all claims referencing that the symbols “may be visually perceived by said player.” Apparently, the Examiner was concerned that the application does not support any method to determine what a player perceives. Consequently, this language has been deleted from the claims.

The Examiner also was objecting to claim language that read “with no predetermined delay.” The Examiner was apparently reasoning that there is intrinsically a delay between the pressing of the stop button stopping of the rotation of the reels, citing as a mechanical example a stepper motor. The Examiner reasoned that this intrinsic delay is a “predetermined delay” hence, the requirement that there is no “predetermined delay” is a physical impossibility. The Applicant is unaware of any technology that acts instantaneously. Whether mechanical or electronic there will be some delay implicit between the pressing of the stop button and the stopping of the reels since nothing can act faster than the speed of light. However, the Applicant’s application is addressed to one of ordinary skill in the art, a game builder or designer. In accordance with customary practice, a stop button ordinarily acts immediately, within the limits imposed by technology, to stop the rotation of the reels. A person of ordinary skill understands there may be some small intrinsic delay due to the laws of nature. For example, in this application on page 27 line 14 to page 28 line 3 the Applicant explains how an electronic version of a preferred embodiment the time interval allowed to operate the stop button to stop a desired symbol in the predetermined location or freeze frame. In that explanation there is no time delay assumed between the pressing of the stop button and the stopping of the rotation of the reels. Of course, a person of skill in the art understands there may be some delay due to the fact that the electrical impulse may require a very small time to travel from the stop button to the CPU then from the CPU to the C.R.T. display of the “rotating” reels. However, to one of ordinary skill in the art, this time delay is understood to be of no significance relative to

the perception/reaction times of a player, hence there is no need to discuss or account for this delay. However, the Applicant has deleted the language which was objected to by the Examiner and added language to affirmatively claim the Applicant's invention to require that the stop button act within a time frame quickly enough to stop the rotation of the reels so that at least one symbol displayed on the reel when the stop button is pressed is still on the reel when the reel is stopped. This timing is described in some detail in the Applicant's application on page 26, lines 12-17 and on page 27 beginning on line 14 and going to page 28, line 3. Applicant was unsure of the nature of the §112 rejection by the Examiner but Applicant has amended the claims and believes the claims now are fully supported by the written description for one of skill in the art.

Claims 7-9 and 16-25 were rejected under 35 U.S.C. 112(2) as being indefinite for failure to particularly point out and distinctly claim the subject matter the Applicant regards in his invention. The Examiner reasons that it is unclear how symbols on a reel, virtual or mechanical, are constrained to stop outside of a predetermined location, since symbols on locations on reels are fixed at the start of the game, unless some symbol must stop on the predetermined location once the reels begin to spin. Applicant refers the Examiner to Figure 5. In the description of Figure 5, there is a freeze frame (102), which is, by definition, the predetermined winning location. In order for the symbol (201) to stop within the free frame (102), the stop button must be pressed within a particular period of time in order to stop the symbol (201) within the freeze frame (102). It is explained on page 18 of the application that, unlike a slot machine or other prior art machines, a player cannot simply let the game "time out" so that a symbol will stop within the freeze frame. The Applicant explains on page 18 of the application that the game is set up so the symbol will never stop in a freeze frame (the predetermined location) unless the player stops it there. It is explained a player has to play the game in order to win. Applicant is not sure what the Examiner means by the statement that "If the symbol is a blank, it is by definition a symbol." However, Applicant traverses any conclusion of the Examiner that a blank space on the Applicant's reels is a

symbol as described and claimed in Applicant's invention. Applicant believes that Applicant's claims are fully supported by the application for Claims 7-9 and 16-25 and respectfully traverses the conclusion of the Examiner that these claims are indefinite.

Claim Rejections 35 U.S.C. 102

Claims 1-2 and 10-11 were rejected under 35 U.S.C. 102 as being anticipated by Nolte, patent #6,165,070. The Examiner reasons that Nolte discloses less than two full symbols on a reel at any given time. From this, the examiner concludes that Nolte can display one full symbol and a high percentage of a second symbol, .99, for example. The Examiner then reasons that this would be visually equivalent to at least two full symbols because a player might perceive two full symbols from the display of .99 of a symbol. This is an assumption of the examiner that presumes that a symbol could be identified by a display of 99% of the symbol. There is no discussion of that assumption in Nolte and is not supported by the Nolte disclosure. Moreover, this conclusion of the Examiner rewrites the Applicant's application and claims. In the Applicant's application and claims at least two full symbols are displayed. The Applicant's claims rejected by the Examiner did contain the phrase "visually perceived by a player." The Examiner rejected this language as indefinite. However, the Examiner interprets the applicant's claim language "...two full symbols may be visually perceived said player..." as reading - symbols visually perceived by a player as two full symbols - thus changing the applicant's objective claim requirement into a subjective perception of a player of two symbols. Applicant traverses this rewriting of his claim language. However, to advance the application, the Applicant has deleted this language "visually perceived by a player" from Applicant's claims. Therefore, the Examiner's reasoning no longer applies. Consequently, the Nolte requirement that "less than two full symbols be displayed" removes it as a 102 reference for the Applicant's claims which require at least two full symbols be displayed.

Moreover, Applicant constrains the rotation of his reels to operate in such a fashion that a

player may visually perceive a symbol and press the stop button to stop that symbol within the freeze frame. This is done through both the requirement that two full symbols be displayed and that there be means for timing of the stop means so that the stop means will stop the rotation of the frames while at least one of the symbols displayed is still displayed within the frame. This is in contrast to the Nolte reference. Nolte explains, in Column 5, lines 54-56, that it is critical that only a single icon is fully displayed at any particular moment in the Nolte grid. The importance of this becomes apparent when Nolte goes on to explain the timing of the player controlled stop. The written description of Nolte for Figure 5, beginning in Column 12, line 62 and extending through Column 13, line 45, makes clear the importance of the Nolte requirement that less than two full symbols be fully displayed at any one time. When the Nolte stop button is pressed, there is a built-in time delay before the rotation of the reels stops. The meaning of the time delay is discussed in Col 13 lines 4 to 44. The time delay may vary from 1 to 4 video frames (Nolte table, Col. 40 lines 30 to 35), but as is shown in Nolte Fig. 3B at a minimum one frame time delay will still mean no icon fully displayed in the visual window will still be displayed in that window when the rotation of the reels is actually stopped. The meaning of this time delay is as follows. A perfect player with instantaneous reflexes is playing the Nolte invention. A desired icon starts to be displayed in the display window and the perfect player instantaneously presses the stop button. The built-in Nolte time delay does not stop the rotation of the movement of the video images instantaneously, but rather is constrained by the Nolte disclosure to have a delay large enough that any icon fully displayed on the reel at the time the stop button is pressed completely passes out of the display window before the rotation of the reel is actually stopped. Pressing the stop button will not stop the turning of the reel in time to stop any icon displayed at the time the stop button is pressed within the display window. This is because less than two symbols are always displayed in the window and the time delay is at least equal to the amount of time for the frame to rotate through the display window. In the Applicant's invention, at least two full symbols are always displayed in the display window and any delay between the pressing of the stop button and the stopping of the rotation of the

symbols is less than the amount of time that it would take for both of these symbols to rotate out of the display window. Consequently, the Nolte built-in time delay is necessarily greater than any time delay in the Applicant's amended claims, which require that there is no time delay large enough to allow both fully displayed symbols to rotate out of the display window.

The Examiner also cites cases arguing that features of an apparatus must be distinguished from the prior art in terms of structure rather than function. Specifically citing a case where a finding of anticipation of a claimed apparatus was upheld because the limitations at issue were found to be inherent in the prior art reference. The Examiner then goes on to reason that Nolte discloses all the claimed structure of a game, but that the claimed invention is a game apparatus for a skill based game having a player controlled stop with no delay so as to be a purely visual reflex. The applicant respectfully traverses this conclusion of the Examiner. The cases cited by the Examiner are based in applications where the claimed function was inherent in the prior art reference. That is simply not the case here. Indeed, the Examiner's reasoning taken to its logical conclusion would make it impossible for any programmed, CPU based video game to be patentable over any other patent which also used a programmed CPU based video game. The structure of each of these games is largely stereotypical. The Nolte game is known in the art as a "eight line game" for the potential eight lines of winning combinations - three columns, three rows, and two diagonals. What distinguished Nolte from a standard eight line game is the programming and the functioning of the game, not the structure of the game apparatus. If the Examiner is concluding that the Nolte game can inherently function like the applicant's game, applicant respectfully traverses that conclusion. The Nolte game will never function like the applicant's game without reprogramming Nolte's game. Again, as the applicant points out that Nolte does not have means for displaying two full symbols on the Nolte virtual reels. This claim rejection is not recited functionally, but as a structure either within an electronic based video game or in a mechanical game. Without that claimed structure displaying two full symbols, Nolte cannot be a 102 reference. It is possible

Nolte's programming could be rewritten with a different program to mimic the function of applicant's invention. However, that is not what is meant by anticipation in patent law and if the Examiner has so concluded, applicant respectfully traverses that conclusion.

Examiner does not discuss the additional limitations added by Applicant's Claims 2, 11, and 27 that Applicant's apparatus provides at least one-tenth of a second to a player of Applicant's game to use the player controlled means to stop the rotation of the reels to stop a symbol that was displayed at the time the means to stop was activated by a player to stop a symbol within the predetermined location or freeze frame. Because the Examiner did not discuss how Nolte provides such a time interval, Applicant cannot specifically advance additional arguments to overcome this rejection by the Examiner but incorporates the arguments made above. Moreover, Applicant incorporates by reference herein prior arguments made in Responses to Office Actions regarding the deficiencies of Nolte disclosure, which does not provide any time interval for a player to press the means to stop, to stop a displayed symbol within a predetermined location. Consequently, Claims 2, 11, and 27 are allowable as written.

Claims Rejections 35 U.S.C 103

Claims 1-2, 10-11, and 26-27 are rejected under 35 U.S.C. as being unpatentable over Nolte in view of Leshik, US patent #4,501,422, Ohki #3,650,535 or Kelly #5,584,763. First the Leshik '422 reference is a display of lights. It does not display a rotating reel with icons or symbols displayed on the reel. Ohki '535 does disclose display drums with symbols on the drums. However, no more than one symbol is shown displayed on the drum (15) through the window (14) at any one time. Kelly '763 is an arcade game having rotating multiple pointers. Consequently, none of these references remedy the deficiency of Nolte which is constrained to display less than two full symbols at any time on the Nolte display. Adding these references to Nolte do nothing to overcome that essential deficiency of Nolte as was argued in response to the 102 rejection. Those arguments

are incorporated by reference herein.

The Examiner reasons that Nolte discloses a game apparatus or method that lacks “with no predetermined delay between ... rotates off said means for display.” The Examiner then uses Leshik, Kelly or Ohki to remedy his teaching of the Nolte reference claiming that these have “no predetermined delay between activation between player controlled stop...and the stopping of the symbols.” This combination of the Examiner is pure hindsight reconstruction in which the Examiner has used the Nolte reference, contrary to the specific teaching of Nolte, to combine Nolte with the other references to then reconstruct a portion of the applicant’s invention. Nolte specifically teaches that there is a delay between the activation of the stop command by a player and the implementation of the stop command on the virtual rotating reels. Moreover, Nolte teaches that such a time delay must be of sufficient duration so that any symbol fully displayed at the time the symbol is activated will no longer be fully displayed - hence in a winning position the stop button is activated by a player. Consequently, the combination of references used by the Examiner is specifically contrary to the teaching of Nolte. The Examiner justifies this combination by claiming that Leshik, Ohki, or Kelly will simplify construction of the device without in any fashion connecting any simplification of the construction of the Nolte device to the construction of the Leshik, Kelly, or Ohki references. Indeed, since the Nolte device only discloses a CPU based device, and the remaining references are all mechanical, it is difficult to see how implementing any portion of the mechanical design of the Leshik, Kelly, or Ohki references could simplify or change the construction of the Nolte CPU device. Consequently, there is certainly nothing in Nolte that would suggest that it is desirable or useful to implement some mechanical apparatus of Leshik, Ohki, or Kelly to the Nolte apparatus. The Examiner also reasons that Leshik, Ohki, or Kelly would “simplify play of game.” However, the entire teaching of the Nolte device is that memorization of symbols is essential to play the Nolte game. Again, Nolte teaches completely away from the conclusion drawn by the Examiner. There is nothing in Ohki, Leshik, or Kelly that suggests or

makes desirable the combinations put forward by the Examiner which are pure prohibited hindsight reconstruction. Consequently, the combinations of the Examiner fail to provide a 103 reference for the applicant's invention as disclosed and claimed for claims 1-2, 10-11, and 26-27.

Claims 3-9, 12-25, and 28-35 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nolte in view of Seibert, U. S. Patent #6,174,234, or, alternately, in view of Nolte, with Leshik, Ohki, or Kelly applied and further in view of Seibert. The Examiner reapplies the reasoning to reject Claims 1, 2, 10, 11, 26, and 27 from Examiner's 102 rejections or Examiner's combinations of 103 rejections. Applicant incorporates by reference herein the arguments made in response to those rejections. The Examiner further adds Seibert to disclose a bonus window. The Examiner reasons that Seibert discloses a player activated game apparatus teaching a bonus window "...prior to initiating said means for rotating each of those symbols...." The examiner reasons this notifies the player of the bonus symbol prior to the play for bonus award for increased player strategy. Applicant respectfully traverses the Examiner's analysis of the Seibert reference. Seibert discloses a rotating series of lights called "character displays" (1) positioned around reel devices (2-5). A player presses the stop button to stop the rotating series of lights or character displays. Once the player has pressed a stop button, the reels (2-5) will then display results of the player controlled stop to the player by matching the display on the reel device to whatever character was "stopped" by a player using the stop button. There is a jackpot display (8). As the game is played and points are accumulated the microprocessor (101) provides signals to display control board (111) which controls a jackpot display (8) to display the current jackpot value (Col. 6, lines 53-56). Alternately, Seibert describes that the jackpot display can be used as part of the display to the player the highest possible score achievable in a game. The Seibert jackpot display is simply an information device that either displays the "jackpot" accumulated by a player during the play of the game, hence, is simply telling a player the score the player has accumulated, or provides information to a player regarding a desirable outcome. This is entirely different from the Applicant's bonus reel and bonus

round. In Applicant's application a bonus reel provides for special enhanced values should the player successfully match particular symbols. The importance of this is described beginning in Applicant's application on page 12, line 13 through page 13, line 14. More particularly, this is shown in Figure 3, which shows how to the highest payouts can be for stopping a bonus symbol in the freeze frame. But successfully stopping two symbols, which are not bonus symbols, in the freeze frame also results in high payouts. Unlike the Applicant's game, the Seibert game does not describe or explain how the advantages of playing the game differently should one successfully stop the bonus symbol in freeze frame one in contrast to the strategy employed when a player successfully stops a symbol different from the bonus symbol in freeze frame one. Consequently, Seibert does not provide a bonus window as is described in the Applicant's application or as is claimed in Claim 3, Claim 12, or Claim 28.

The Examiner does not discuss the requirement of Applicant's Claim 4, Claim 13, or Claim 29 that the same total number of predetermined fixed symbols be randomly distributed on said plurality of fixed reels, or Claim 5, Claim 14, or Claim 29 regarding the distribution of the frequency of the symbols on the reel, or Claim 6, Claim 15, or Claim 30 regarding the amount of time to operate the means for stopping, nor does the Examiner discuss Claim 7 and Claim 16 limitation regarding the requirement that a player must use the means for stopping a symbol in the predetermined location so that a player cannot win by allowing the game to "time out." The Examiner does not discuss the limitation of Claim 8, Claim 21, or Claim 32 requiring a bonus table, or Claim 9 and Claim 22 regarding a game counter. The Examiner did not discuss the requirements of Claims 4, 13, 29, 5, 14, 29, 6, 15, 30, 7, 16, 8, 21, 32, 9, and 22. or explain how any of the prior art disclose these claim limitations, Applicant has previously argued the patentability of independent claims and underlying dependent claims. Applicant incorporates those arguments herein. Because the Examiner did not discuss how any of the combinations either anticipate nor render obvious these specific claims referenced above, Applicant will not argue these claim rejections here, since

there is nothing offered by the Examiner that the Applicant can respond to. Applicant will incorporate by reference herein arguments made in response to previous Office Actions regarding the patentability of these claims.

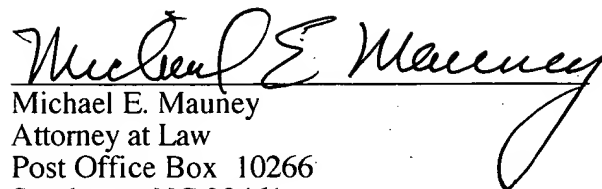
The Examiner did not discuss the limitation for Claim 17 or for Claim 31 for means for shuffling the random distribution of the symbols on the reel, or Claim 18 regarding the distribution of the symbols on the reel, or Claim 19 regarding the timing of the means for shuffling, or Claim 20 regarding the interaction of said means for shuffling with said timer. Claims 21-25 and Claims 33-35 disclose limitations for the bonus round. Nothing in Seibert or any of the other references disclose a bonus round. Consequently, these Claims 17, 31, 18, 19, 20, 21, 22, 23, 24, 25, 33, 34, and 35 are believed allowable. Because the Examiner did not discuss how any of the combinations of prior art previously cited either anticipate nor render obvious the specific claims referenced above, Applicant will not argue those claim rejections here. There is nothing offered by the Examiner that the Applicant can respond to. Applicant incorporates by reference herein arguments made in response earlier in this Office Action in response to rejections regarding other claims and incorporates by reference herein arguments made in response to previous Office Actions regarding the patentability of these claims.

Conclusion

The Applicant has addressed the 112 rejections of the Examiner by amending claims to either change or delete objected to claim language. The Applicant has also explained that Claims 7-9 are not indefinite and are fully supported by the disclosure. Applicant has responded to 102 rejections of Claims 1, 2, 10, 11, 26, and 27. Applicant has responded to 103 rejections of Claims 1-35. Consequently, it is believed that all claims are in a condition for allowance and the same is respectfully requested.

This the 29 day of August, 2006.

Very truly yours,

A handwritten signature in cursive script, reading "Michael E. Mauney". The signature is written in black ink and is positioned above a horizontal line.

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CERTIFICATE OF SERVICE

I, Michael E. Mauney, do hereby certify that a copy of the foregoing Response to Office Action in:

Application No. 09/663,661

Applicant: Thomas S. Abbott

Invention: A REEL GAME REQUIRING SKILL TO WIN

Filing Date: 9-15-2000

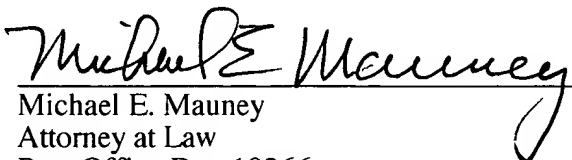
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- () By handing such copy to the aforementioned attorney, or by leaving said copy at the above mentioned attorney's office with a partner or employee of his office.
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This the 29 day of August, 2006.



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